

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN LOUIS CORRIGAN,

Petitioner,

vs.

COUNTY OF ADAMS/JUDGE HILL,

Respondent.

NO. CV-06-034-LRS

ORDER DENYING PETITION

Petitioner was convicted of refusing to sign a traffic infraction, a misdemeanor under Washington State law, RCW 46.61.022. Following his jury trial in Adams County, Petitioner was sentenced on May 9, 2003, to 90 days incarceration, with 85 days suspended. Petitioner admits he has already served this sentence. He resides in Auburn, Washington, and is proceeding *pro se*; Respondents have not been served in this action.

By Order filed March 16, 2006, the court directed Mr. Corrigan to amend his petition to demonstrate he was "in custody" as required by 28 U.S.C. §§ 2241(c)(3) & 2254(a). *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989); *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968)). Mr. Corrigan submitted his amended petition, along with a Memorandum in Support of "In Custody" Requirement (Ct. Rec. 5) on May 10, 2006. After review of Petitioner's submissions, the court finds he has

1 failed to satisfy the "in custody" requirement.

2 Mr. Corrigan argues he should be deemed to have been "in custody"
3 when he filed his petition because (1) he was required to exhaust his
4 state court remedies prior to filing a habeas action; (2) he had
5 objected to the trial court's summonses by letter, asserting he was
6 pursuing post conviction relief; and (3) the state abused process by
7 issuing an arrest warrant and making Petitioner serve his sentence in
8 order to preclude Petitioner from seeking state and federal habeas
9 relief. He asserts the following collateral consequences of his
10 conviction render him still "in custody": (1) the fact a § 1983 civil
11 rights complaint was barred under *Heck v. Humphrey*, 512 U.S. 477
12 (1994); (2) a fine was imposed; (3) there is a possibility of enhanced
13 future punishment; and (4) his state habeas has already been denied
14 due to the fact he was not "in custody."

15 In addition, Petitioner contends he is innocent of the underlying
16 charges because it is unconstitutional to "throw a person in jail" for
17 refusing to sign a traffic citation and there was insufficient
18 evidence to support the jury's verdict of guilt. The court does not
19 find these assertions to be sufficient collateral consequences to
20 satisfy the "in custody" requirement. *See Maleng*, 490 U.S. at 492
21 ("[O]nce the sentence imposed for a conviction has completely expired,
22 the collateral consequences of that conviction are not themselves
23 sufficient to render an individual 'in custody' for the purposes of a
24 habeas attack upon it.")

25 Petitioner has demonstrated no restraints on his liberty. Mr.
26 Corrigan is not on probation, parole or supervised release. *See United*

1 *States v. Spawr Optical Research, Inc.*, 864 F.2d 1467, 1470 (9th Cir.
2 1988). His conviction is expired.

3 Petitioner has failed to demonstrate he is subject to a
4 significant restraint upon his liberty "not shared by the public
5 generally." See *Jones v. Cunningham*, 371 U.S. 236, 240 (1963). Mr.
6 Corrigan can come and go as he pleases. See *Hensley v. Municipal*
7 *Court*, 411 U.S. 345, 351 (1973). His physical presence is not
8 required at any particular place (i.e. mandatory class attendance).
9 See *Dow v. Circuit Court of the First Circuit*, 995 F.2d 922, 923 (9th
10 Cir. 1993). Any future incarceration is a speculative possibility
11 and entirely depends on contingencies well within Petitioner's
12 control. See *Hensley*, 411 U.S. at 351-52.

13 Regardless of his contentions, Petitioner has not shown a
14 significant restraint constituting "custody". Because Petitioner is
15 not in custody within the meaning of 28 U.S.C. § 2254, he is not
16 entitled to invoke federal habeas corpus jurisdiction. Accordingly,
17 **IT IS ORDERED** this Petition be **DENIED** for lack of subject matter
18 jurisdiction.

19 **IT IS SO ORDERED.** The District Court Executive is directed to
20 enter this Order, enter judgment, forward a copy to Petitioner, and
21 close the file.

22 **DATED** this 25th day of May, 2006.

23
24 **s/Lonny R. Suko**

25 _____
26 LONNY R. SUKO
27 UNITED STATES DISTRICT JUDGE